

AMENDED IN SENATE MAY 2, 2012

SENATE BILL

No. 1451

Introduced by Senator Calderon

February 24, 2012

An act to amend ~~Section 1104~~ *Sections 11162 and 11163* of, and to add *Section 11163.5* to, the Insurance Code, relating to insurance.

LEGISLATIVE COUNSEL'S DIGEST

SB 1451, as amended, Calderon. Insurance: *fraternal benefit societies*: loans.

~~Existing law prohibits an admitted insurer from making any loan, other than a policy loan, to any officer, director, trustee, or other person having authority in the management of its funds, and the officer, director, trustee, or other person is prohibited from accepting the loan. The prohibition does not include a loan to, or for the benefit of, an employee for the purpose of paying the premiums on a life insurance policy on the life of the employee.~~

Existing law governs the organization of fraternal benefit societies, which, among other characteristics, are nonprofit, incorporated societies, orders, or supreme lodges, without capital stock, conducted solely for the benefit of members and their beneficiaries, have a representative form of government, and make provision for the payment of benefits. Existing law authorizes these entities to provide all forms of life and disability insurance, except as specified. Existing law makes it a felony for any officer, director, agent, or employee of any fraternal benefit society to borrow funds of the society, to become endorser or surety for loans by the society to others, or to be obligor for moneys borrowed or loaned by the society. Existing law also makes it a felony for an officer, trustee, agent, or employee of a fraternal benefit society

to ask, receive, or consent or agree to receive anything of value for procuring or endeavoring to procure a loan to any person from the trust funds of, or funds belonging to, a fraternal benefit society.

This bill would include as exceptions to the loan prohibition except from these prohibitions, startup loans to an agent, or policy loans by parties subject to the laws regulating loans made by a fraternal benefit societies society to a member of the society under certain conditions and loans made to a life licensee, as defined, appointed by the fraternal benefit society, under specified conditions, including that the loan is not made to an officer or director of the society, that the loan is secured in accordance with insurance industry practices for that loan, and that no officer, director, agent, or employee of the society, other than the life licensee, receives consideration due to the making of the loan.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 *SECTION 1. Section 11162 of the Insurance Code is amended*
2 *to read:*

3 11162. ~~It~~*Except as provided in Section 11163.5, it is a felony,*
4 punishable by imprisonment pursuant to subdivision (h) of Section
5 1170 of the Penal Code, for any officer, director, agent or employee
6 of any fraternal benefit society to, directly or indirectly, for himself
7 or as partner or agent of others:

8 (a) Borrow any of the funds of such society.
9 (b) Become endorser or surety for loans by the society to others.
10 (c) In any manner be obligor for moneys borrowed or loaned
11 by such society.

12 *SEC. 2. Section 11163 of the Insurance Code is amended to*
13 *read:*

14 11163. ~~It~~*Except as provided in Section 11163.5, it is a felony,*
15 punishable by imprisonment pursuant to subdivision (h) of Section
16 1170 of the Penal Code, for any officer, trustee, agent or employee
17 of a fraternal benefit society to ask, receive, or consent or agree
18 to receive anything of value for procuring or endeavoring to
19 procure a loan to any person from the trust funds of, or funds
20 belonging to, a fraternal benefit society.

21 *SEC. 3. Section 11163.5 is added to the Insurance Code, to*
22 *read:*

1 11163.5. Sections 11162 and 11163 shall not prohibit the
2 following:

3 (a) A loan by a fraternal benefit society to a member made under
4 the provisions of a certificate form available to members of the
5 society in the ordinary course of the society's business.

6 (b) A loan to a life licensee, as defined in Section 1626,
7 appointed by the fraternal benefit society pursuant to Section 1704,
8 if all of the following apply:

9 (1) The loan is not made, directly or indirectly, to an officer or
10 director of the society.

11 (2) The loan is secured in accordance with insurance industry
12 practices for these loans.

13 (3) No officer, director, agent, or employee of the society, other
14 than the life licensee, receives any consideration due to the making
15 of the loan.

16 (4) The loan is for the purpose of enabling the licensee to lease
17 an office, lease or purchase office equipment or supplies, or pay
18 for other expenses related to selling the society's certificates for
19 not more than six months.

20 SECTION 1. ~~Section 1104 of the Insurance Code is amended~~
21 ~~to read:~~

22 ~~1104. An admitted insurer shall not make any loan, other than~~
23 ~~a policy loan, to any officer, director, trustee, or other person~~
24 ~~having authority in the management of its funds, nor shall that~~
25 ~~officer, director, trustee, or other person accept the loan.~~

26 ~~This section does not prohibit a loan to, or for the benefit of, an~~
27 ~~employee for the purpose of paying the premiums on a life~~
28 ~~insurance policy on the life of that employee, agent startup loans,~~
29 ~~or policy loans by parties subject to Chapter 10 (commencing with~~
30 ~~Section 10970) of Part 2 of Division 2 regarding fraternal benefit~~
31 ~~societies.~~